

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 5/29/2014
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DAVID AGOSTO,

Petitioner,

-v-

H.L. HUFFORD, Warden,

Respondent.
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13-CV-4082(VEC)(SN)

MEMORANDUM
OPINION AND ORDER

VALERIE CAPRONI, United States District Judge:

Pro se petitioner David Agosto filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 on June 11, 2013. In September 2013 this Court ordered the respondent to answer the petition and referred the action to Magistrate Judge Netburn for the preparation of a Report and Recommendation pursuant to 28 U.S.C. § 636(b). On May 9, 2014, Judge Netburn issued her Report and Recommendation to this Court.

DISCUSSION

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). When specific objections are made, “[t]he district judge must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3); *see United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). District courts may accept a Report and Recommendation so long as “there is no clear error on the face of the record.” *Galeana v. Lemongrass on Broadway Corp.*, No. 10-cv-7270(GBD)(MHD),

-- F. Supp. 2d ---, 2014 WL 1364493, *1 (S.D.N.Y. Apr. 4, 2014); *Phillips v. Reed Group, Ltd.*, 955 F. Supp. 2d 201, 211 (S.D.N.Y. 2013).

CONCLUSION

Careful review of the Report reveals that there is no facial error in its conclusions. The petition for habeas corpus is DENIED. The parties' failure to file written objections precludes appellate review of this decision. *See Caidor v. Onondaga County*, 517 F.3d 601, 604 (2d Cir. 2008). The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and permission to proceed *in forma pauperis* is denied. The Clerk of the Court is respectfully directed to terminate the case.

SO ORDERED:

May 29, 2014
New York, New York


VALERIE CAPRONI
United States District Judge